

(v) MUG positive and negative controls should be used as reference in interpreting fluorescence reactions. Use an *E. coli* for positive control and 2 negative controls—a MUG negative strain and an uninoculated tube media.

(d) If either 10 mL subsample is positive for *E. coli*, the 20 mL sample is recorded as positive and the processor shall:

(1) Review monitoring records for the control measures to attain the 5-log reduction standard and correct those conditions and practices that are not met. In addition, the processor may choose to test the sample for the presence of pathogens of concern.

(2) If the review of monitoring records or the additional testing indicates that the 5-log reduction standard was not achieved (*e.g.*, a sample is found to be positive for the presence of a pathogen or a deviation in the process or its delivery is identified), the processor shall take corrective action as set forth in §120.10.

(e) If two samples in a series of seven tests are positive for *E. coli*, the control measures to attain the 5-log reduction standard shall be deemed to be inadequate and the processor shall immediately:

(1) Until corrective actions are completed, use an alternative process or processes that achieve the 5-log reduction after the juice has been expressed;

(2) Perform a review of the monitoring records for control measures to attain the 5-log reduction standard. The review shall be sufficiently extensive to determine that there are no trends towards loss of control;

(i) If the conditions and practices are not being met, correct those that do not conform to the HACCP plan; or

(ii) If the conditions and practices are being met, the processor shall validate the HACCP plan in relation to the 5-log reduction standard; and

(3) Take corrective action as set forth in §120.10. Corrective actions shall include ensuring no product enters commerce that is injurious to health as set forth in §120.10(a)(1).

PART 123—FISH AND FISHERY PRODUCTS

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Subpart A—General Provisions

§ 123.3 Definitions.

The definitions and interpretations of terms in section 201 of the Federal Food, Drug, and Cosmetic Act (the act) and in part 110 of this chapter are applicable to such terms when used in this part, except where they are herein redefined. The following definitions shall also apply:

(a) *Certification number* means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish processor.

(b) *Critical control point* means a point, step, or procedure in a food process at which control can be applied, and a food safety hazard can as a result be prevented, eliminated, or reduced to acceptable levels.

(c) *Critical limit* means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to prevent, eliminate, or reduce to an

acceptable level the occurrence of the identified food safety hazard.

(d) *Fish* means fresh or saltwater finfish, crustaceans, other forms of aquatic animal life (including, but not limited to, alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, where such animal life is intended for human consumption.

(e) *Fishery product* means any human food product in which fish is a characterizing ingredient.

(f) *Food safety hazard* means any biological, chemical, or physical property that may cause a food to be unsafe for human consumption.

(g) *Importer* means either the U.S. owner or consignee at the time of entry into the United States, or the U.S. agent or representative of the foreign owner or consignee at the time of entry into the United States, who is responsible for ensuring that goods being offered for entry into the United States are in compliance with all laws affecting the importation. For the purposes of this definition, ordinarily the importer is not the custom house broker, the freight forwarder, the carrier, or the steamship representative.

(h) *Molluscan shellfish* means any edible species of fresh or frozen oysters, clams, mussels, or scallops, or edible portions of such species, except when the product consists entirely of the shucked adductor muscle.

(i) *Preventive measure* means physical, chemical, or other factors that can be used to control an identified food safety hazard.

(j) *Process-monitoring instrument* means an instrument or device used to indicate conditions during processing at a critical control point.

(k)(1) *Processing* means, with respect to fish or fishery products: Handling, storing, preparing, heading, eviscerating, shucking, freezing, changing into different market forms, manufacturing, preserving, packing, labeling, dockside unloading, or holding.

(2) The regulations in this part do not apply to:

(i) Harvesting or transporting fish or fishery products, without otherwise engaging in processing.

(ii) Practices such as heading, eviscerating, or freezing intended solely to prepare a fish for holding on board a harvest vessel.

(iii) The operation of a retail establishment.

(l) *Processor* means any person engaged in commercial, custom, or institutional processing of fish or fishery products, either in the United States or in a foreign country. A processing includes any person engaged in the production of foods that are to be used in market or consumer tests.

(m) *Scombroid toxin-forming species* means tuna, bluefish, mahi mahi, and other species, whether or not in the family Scombridae, in which significant levels of histamine may be produced in the fish flesh by decarboxylation of free histidine as a result of exposure of the fish after capture to temperatures that permit the growth of mesophilic bacteria.

(n) *Shall* is used to state mandatory requirements.

(o) *Shellfish control authority* means a Federal, State, or foreign agency, or sovereign tribal government, legally responsible for the administration of a program that includes activities such as classification of molluscan shellfish growing areas, enforcement of molluscan shellfish harvesting controls, and certification of molluscan shellfish processors.

(p) *Shellstock* means raw, in-shell molluscan shellfish.

(q) *Should* is used to state recommended or advisory procedures or to identify recommended equipment.

(r) *Shucked shellfish* means molluscan shellfish that have one or both shells removed.

(s) *Smoked or smoke-flavored fishery products* means the finished food prepared by:

(1) Treating fish with salt (sodium chloride), and

(2) Subjecting it to the direct action of smoke from burning wood, sawdust, or similar material and/or imparting to it the flavor of smoke by a means such as immersing it in a solution of wood smoke.

(t) *Tag* means a record of harvesting information attached to a container of shellstock by the harvester or processor.